IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINTH DAY OF SEPTEMBER
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE GODA RAGHURAM

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WRIT PETITION NOs : 6071 and 6098 of 2000

WRIT PETITION NO : 6071 of 2000

Between:

1. The Engineer-in-Chief; I & CAD,
   Errammanzil, Hyderabad.
2. The Superintending Engineer; I D O & M Circle,
   Tekulapalli, Khammam.

..... PETITIONERS

AND

1 K.Krishna Murthy, S/o. basanaidu,
   C/o. P.M.Vijay, H.No.2-1010-B-16-2-1-H,
   Srinivas Nagar, V.V.Complex, Hanamakonda.
2 The Presiding Officer, Industrial Tribunal-cum-Labour Court,
   Warangal.

.....RESPONDENTS

WRIT PETITION NO : 6098 of 2000

Between:

1. The Engineer-in-Chief; I & CAD
   Erramanzil, Hyderabad
2, The Superintendent Engineer; ID O & M circle
   Tekulapalli, Khammam District

.... PETITIONERS

AND

1 The Ramaiah S/o Gopaiah, C/o P.M.Vijay Representative
H.No. 2-725-1-SD/1, KLN Reddy Colony, Subedari,
Hanamakonda,
2 The Presiding Officer Industrial Tribunal cum Labour Court,
Warangal,.

.....RESPONDENTS

COMMON ORDER:

These Writ petitions are filed by the Engineer-in-Chief, Irrigation and Command Area Development and the Superintending Engineer O and M Circle, Tekulapalli, Khammam against the Award, dated 25.01.1999 in I.D.No.187 of 1984 of the Industrial Tribunal-cum-Labour Court, Warangal.

The first respondent laid a claim under Section 2-A(2) of the Industrial Disputes Act, 1947 alleging that he was employed as a Helper on daily wage basis by the A.P. State Construction Corporation Limited on 01.03.1977, had worked continuously up to 06.08.1979 and was orally terminated on 06.08.1979, while several juniors were continued in service. He also alleged that at the time of his termination, he was not paid terminal benefits and Section 25 F of the Industrial Disputes Act had not been complied with by the petitioners herein. According to the first respondent, the Government of Andhra Pradesh had decided to close the A.P. State Construction Corporation Limited with effect from 30.06.1983 and retrenchment notices were served on all the employees. These employees approached the Supreme Court of India, which stayed the retrenchment order and granted an interim direction not to retrench any worker and had directed to provide alternative employment in any

Government Department or undertakings. Pursuant to the above observations of the Supreme Court of India the State directed the A.P. State Construction Corporation Limited to transfer the workers to the Irrigation Department on the same terms and conditions. Juniors to the petitioner who were working as casual Helpers who continued in the services of A.P. State Construction Corporation Limited derived the said benefit and stood transferred to the Irrigation Department and their services were also regularized. In these circumstances the petitioner sought invalidation of his illegal retrenchment by A.P. State Construction Corporation Limited and his employment by the Irrigation Department.

The Labour Court by the Award impugned in this writ petition considered the evidence on record produced by the first respondent-claimant and the writ petitioners and concluded that the termination of the first respondent by the A.P. State Construction Corporation Limited was in violation of the provisions of Section 25 F and G of the Industrial Disputes Act 1947 and therefore he is entitled to relief. However, having regard to the inordinate delay on the part of the first respondent in approaching the Labour Court and the peculiar circumstances of the case, the Labour Court directed that the petitioner be reinstated as a freshly recruited Helper without back-wages or any other attendant benefits. The Labour Court however and curiously observed that though the petitioner is to be reinstated as a fresh recruitee, his seniority should be considered on par with his juniors and colleagues who were continued and reappointed after termination of the petitioner, though without back wages. This part of the order of the Labour Court is unsustainable for being unintelligible. It is also unworkable.

If the petitioner is to be appointed as a fresh recruitee his service with Irrigation Department starts with effect from the date of his fresh recruitment. As such he cannot claim seniority over persons whose services were not terminated in 1979 as the petitioner was, who continued up to 1984 or 1985 in the A.P. State Construction Corporation Limited who were thereafter absorbed in the Irrigation Department and without a break in service. Therefore, despite the indolence of the first respondent in approaching the Labour Court 15 years after his alleged termination, the first respondent would be enabled the steal a march and gain seniority of over 15 years over his so called juniors who continued in service without a break. Such a course of action would wreck havoc in the establishment and create unending heartburn in the service and will not be conducive to harmonious relationship. Such relief would be perverse and inimical to public interest.

For the aforesaid reason, these writ petitions are partly allowed. The award of the Labour Court is modified to the extent of declaring that the first respondent shall not be entitled to any benefit of seniority or to continuity in service etc. for the period prior to his reinstatement in to service as a fresh recruit pursuant to the award of the Labour Court. To put it shortly the petitioner shall be entitled only to the appointment as a Helper afresh with no other benefits whatsoever and his service in the Irrigation Department shall commence with effect from the date of his appointment pursuant to the award. The writ petitioners shall treat the petitioner as having been appointed afresh as a Helper with effect from 30 days after the publication of the award i.e. w. e. f. 12.06.1999 (the award having been published in G.O.Rt.No.905, dated 12.05.1999).

The writ petitions so allowed. No order as to costs.

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29-09-2005

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